

# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

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In Reply To:

2200/3000 (924.6) P

December 21, 2006

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Instruction Memorandum No. MT-2007-016

Expires: 9/30/08

To: All Montana/Dakotas Employees

From: State Director

Subject: BLM Energy and Non-Energy Mineral Policy and the Withdrawal Program

**Program Area:** Lands and Realty Program, Minerals Management, Resource Management

**Purpose:** This Instruction Memorandum (IM) implements the new BLM Energy and Non-Energy Mineral Policy (Mineral Policy) in the Montana/Dakotas land withdrawal program.

**Policy/Action:** The BLM Mineral Policy was developed in alignment with the new land withdrawal policy in the Departmental Manual Part 603, Land Withdrawal Program. This IM incorporates the new Mineral Policy, transmitted by WO IM 2006-197, into the land withdrawal program within the Montana/Dakotas lands and realty program. The criteria for new withdrawal proposals and renewals must now meet the requirements and principles of the new Mineral Policy. A complete copy of that policy can be accessed using the following link: [http://www.blm.gov/nhp/spotlight/mineral\\_policy](http://www.blm.gov/nhp/spotlight/mineral_policy).

However, the Mineral Policy does not apply to the following types of withdrawal applications:

1. Withdrawal applications classified for national security reasons or are subject to the Military Lands Withdrawal Act of 1958 (Engel Act);
2. Withdrawals directed by federal legislation or by the Secretary of the Interior;
3. Withdrawals made to transfer custody and control of federal land from one agency to another.

**Timeframe:** This IM is effective immediately.

**Budget Impact:** None.

**Background:** Prior to the 2006 Mineral Policy, withdrawals were processed by the lands and realty staff in response to withdrawal recommendations from field office resource staff. The new policy encourages mineral development and requires stronger justifications for all new withdrawals. The 2006 Mineral Policy includes the following principles that affect the land withdrawal program (emphasis added to highlight changes):

1. Public lands shall remain open and available for mineral exploration and development unless withdrawal or other administrative actions are clearly justified in the national interest.

2. The BLM actively encourages development by private industry of public land mineral resources.

3. The BLM land use planning and multiple-use management decisions will recognize that, with few exceptions, mineral exploration and development can occur concurrently or sequentially with other resource uses.

4. Land use plans will reflect geological assessments and mineral potential on public lands.

5. The BLM will apply these principles to the management of mineral resources and operations on Indian Trust lands.

In addition to the 2006 BLM Mineral Policy, the Department of the Interior Manual Part 603, effective August 1, 2005, includes new and stronger requirements for obtaining an administrative withdrawal. The WO will provide more oversight into the withdrawal program based on the new policies, and all withdrawal petitions shall be referred to the Assistant Secretary - Land and Minerals Management (AS-LM), before they can even be considered for approval. Also, unless exclusive use of the land is required, lands shall be available for other public purposes to the fullest extent possible consistent with the purpose of the withdrawal. The DOI policy can be accessed through the following link:

[http://elips.doi.gov/app\\_DM/act\\_getfiles.cfm?relnum=3678](http://elips.doi.gov/app_DM/act_getfiles.cfm?relnum=3678)

At the end of every two fiscal years, BLM must report to the AS-LM concerning developments and trends in land withdrawal matters, including acreages, purposes, and agencies for which withdrawals are made. Recommendations for action by the Office of the Secretary for needed improvements in the land withdrawal program can also be submitted with the report.

**Manual/Handbook Sections Affected:** The new policy adds requirements to all new withdrawal applications filed pursuant to 43 CFR 2310, except as described above. Attached is a summary of the requirements for new withdrawal applications.

**Coordination:** MT-924.

**Contact:** For questions regarding this IM, please contact Dee Baxter at (406) 896-5044.

Signed by: Gene R. Terland, State Director

Authenticated by: Kathy Iszler, Staff Assistant (924)

1 Attachment

1-Withdrawal Application Requirements (4 pp in its entirety)

Distribution w/Attn.

Assistant Field Manager, Havre Field Station - 1

Assistant Field Manager, Glasgow Field Station - 1

**Withdrawal Application Requirements**  
(per 43 CFR 2310.1-2 and BLM 2006 Mineral Policy)

There is no specific form required for withdrawal applications, but an application shall contain the following information:

1. Name and address of applicant agency: \_\_\_\_\_  
\_\_\_\_\_

2. For *non-Interior agencies*, a statement of the delegation of authority for the signing official:  
\_\_\_\_\_ Statement of Delegation of Authority attached

For *Interior agencies*, a withdrawal petition to the Secretary of the Interior is required to obtain approval to file an application:  
\_\_\_\_\_ Petition attached

3. Consent from the affected agency if the proposed withdrawal will encumber lands under the jurisdiction of another agency:  
\_\_\_\_\_ Consent attached

4. Type of withdrawal action requested:  
a. New withdrawal \_\_\_\_\_  
b. Extension \_\_\_\_\_  
c. Modification \_\_\_\_\_

5. Legal description of the lands (see 43 CFR 2310.1-2(c)(5), (i), (ii), and (iii):

6. Overlapping withdrawals:

7. Public purpose or statutory program for which the lands would be withdrawn:

8. Extent of segregation requested from the land and/or mineral laws:  
\_\_\_\_\_ Mineral Location Only  
\_\_\_\_\_ Surface Only  
\_\_\_\_\_ Surface and Mineral Location

9. Temporary land uses that would continue to be allowed:

10. Explain why a right-of-way or cooperative agreement sufficient.

11. Requested duration of the withdrawal: \_\_\_\_\_ years.

12. Are there any alternative sites for the proposed use?

Yes \_\_\_\_\_

No \_\_\_\_\_

13. Will water be needed for the withdrawal?

Yes \_\_\_\_\_

No \_\_\_\_\_

14. Records relating to the application can be examined at: \_\_\_\_\_

15. *For Interior agencies*, a preliminary identification of the mineral resources in the area.

\_\_\_\_\_ Mineral documentation attached

The following items for withdrawal applications are also now required under the 2006 BLM Mineral Policy, pursuant to 43 CFR 2310 and DM603:

- (A) A 1:24,000 topographic map showing the proposed withdrawal area and the location of the resource or improvement to be protected;
- (B) The approximate monetary value of any improvements to be placed on the withdrawn lands;
- (C) A justification for the lands to be withdrawn, addressing the following:
  - 1) How the integrity of the resources to be protected or preserved by a withdrawal is at risk with the active management of the lands for other public purposes:
  - 2) Narrative describing how the resource is in terms of its rarity, significance, fragility, or irreplaceability:
  - 3) Why existing law or regulation cannot protect or preserve the resource:
  - 4) The requested acreage is the minimum needed to protect or preserve the withdrawn resource(s).
  - 5) How the proposed withdrawal is clearly justified in the national interest.
- (D) If the current land use plan for the withdrawn area does not reflect the geological assessment and mineral potential on the public lands to be withdrawn, a new mineral assessment to determine mineral potential is required.
- (E) Recognition by the applicant agency that, unless exclusive use of the lands is required, lands shall be available for other public purposes to the fullest extent possible consistent with the purposes of the withdrawal. In such cases, the agency must be willing to undertake management of such alternative uses while the withdrawal is in effect.

## BLM Montana/Dakotas Withdrawal Processing

BLM withdrawal proposals:

Field Office Responsibilities:

- \_\_\_\_\_ Petition/application for proposed withdrawal
- \_\_\_\_\_ Preliminary identification of mineral resources
- \_\_\_\_\_ 1:24,000 topographic map of proposed withdrawal area
- \_\_\_\_\_ Approximate value of improvements
- \_\_\_\_\_ Justification for withdrawal
- \_\_\_\_\_ Justification for exclusive withdrawal

MSO Lands Adjudication staff responsibilities:

- \_\_\_\_\_ Draft a Notice of Proposed Withdrawal for Federal Register
- \_\_\_\_\_ Review and surnames from Minerals staff and Field Solicitor
- \_\_\_\_\_ Memorandum to WO-350 and AS-LM, for petition/application approval
- \_\_\_\_\_ Forward package to WO-350 (also reviewed by WO Solicitor and Federal Register review team).

If the withdrawal petition/application is approved by the AS-LM, the field office has an 18-month time period to complete the NEPA documents and prepare the final recommendations.

The MSO Lands Adjudication staff will prepare the draft Public Land Order (PLO) and accompanying memoranda to forward to WO-350 for final processing. The actual PLO is signed, Assistant Secretary of the Interior, and published in the Federal Register. The MSO public land records will also be noted accordingly.

### **Other agency withdrawal actions:**

For withdrawal proposals or applications filed by another agency on lands under the administration of that agency only, MSO Lands Adjudication staff will prepare the required documents and no work is required from the BLM field office.

For withdrawal proposals or applications filed by another agency on lands under the jurisdiction of BLM, the affected BLM field office will work closely with the other agency to complete the NEPA documentation and submit the withdrawal recommendations. The MSO Lands Adjudication staff will prepare the final documents.